

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

CRL.A.No. 598 of 2002()

CC.1304/1999 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM
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APPELLANT: COMPLAINANT:

M/S. PRIMA AGRO PRODUCTS LTD.,
PRIMA HOUSE, BANERJI ROAD, ERNAKULAM NORTH,
COCHINI-682 018, REPRESENTED BY ITS POWER OF
ATTORNEY HOLDER, MR.CHARLEY RODRIGUE.

BY ADV. SRI.C.A.MAJEED

RESPONDENTS: ACCUSED:

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1. M/S. MALABAR AGENCIES,
BEHIND PRIVATE BUS STAND, NEAR KRS PARCEL OFFICE,
CHERPLASSERY, PALAKKAD-679 503.
 2. MR.FEROZ BABU,
MANAGING PARTNER, MALABAR AGENCIES,
BEHIND PRIVATE BUS STAND, NEAR KRS PARCEL OFFICE,
CHERPLASSERY, PALAKKAD-679 503.
 3. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.598 of 2002

Dated this the 25th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of CrI.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 25.10.2007.

The appeal is allowed.

**K.R.UDAYABHANU,
JUDGE**